



An
Bord
Pleanála

Inspector's Report

ABP-304125-19

Development	Construction of dwelling, garage, effluent treatment system with tertiary percolation/polishing filter, dual entrance and permission to demolish existing garage.
Location	Ballyoran, Castlelyons, Co Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	18/6743
Applicant(s)	Alan and Esther Duggan
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v. Refusal
Appellant(s)	None
Observer(s)	None
Date of Site Inspection	13 th June 2019
Inspector	Elaine Power

1.0 Site Location and Description

- 1.1. The site is located in Ballyoran approx. 2.5km north west of the village of Castlelyons and approx. 3.5km south east of Fermoy. Ballyoran is a rural area characterised by agricultural lands. There are a number of one-house houses located in the vicinity of the site.
- 1.2. The site is located to the rear of an existing one-off house. It has a stated area of 0.267ha and is irregular in shape. It is elevated and currently overgrown with mature vegetation. Access to the site is from the public road via a shared access arrangement with an existing house. There is an additional access from the west of the site via an overgrown laneway.

2.0 Proposed Development

- 2.1. It is proposed to demolish an existing 29sqm garage and construct a single storey house with a gross floor area of 138sqm. The house is a traditional design with pitched roof features on the front elevation. It has a pitched roof with a maximum height of approx. 6m. The house is to be located in the centre of the site, approx. 100m from the public road. It is also proposed to construct a garage with a gross floor area of approx. 98sqm. The garage has a pitched roof with a maximum height of approx. 7m and is located approx. 11m west of the proposed house.
- 2.2. Vehicular access is proposed from an existing access onto the public road. A new driveway approx. 90m in length is proposed to link the site to the public road. The width of the driveway varies from 6m to 11m. A letter of consent to the use of the existing access has been provided.
- 2.3. The development also includes a new effluent treatment system with tertiary percolation / polishing area .
- 2.4. Water supply is proposed via the Ballyoran Group Water Scheme. A letter of consent has been provided.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for the following reasons: -

1. *Having regard to the ground conditions on site, as evidence by the soil suitability test carried out on the site and to the size and slope of the site, the Planning Authority considers on the basis of the information submitted that the site cannot be drained satisfactorily by means of wastewater treatment system. The proposed development would, therefore, be prejudicial to public health and could pose a pollution risk to existing groundwater and existing private wells. The proposed development would, therefore, be contrary to proper planning and sustainable development of the area.*
2. *The proposed development, when taken in conjunction with existing development in the area, would give rise to an excessive density of development in a rural area lacking certain public services and community facilities sited within the town greenbelt of Fermoy, would give rise to an excessive concentration of waste water treatment systems, would lead to demands for the uneconomic extension of public services and community facilities in an area where they are not proposed, would militate against the preservation of the rural character of the area and would lead to an expectation of further permission on adjoining land.*

The proposed development would therefore not be in accordance with the Sustainable Rural Housing Guidelines published by the Department of the Environment, Heritage and Local Government, would be contrary to RCI 5-8 of the Cork County Development Plan 2014, would be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

3. *The proposed development would be located at an elevated location well above the public road, the L1516, to the south and to the rear of established residential properties. As indicated in the County Development Plan, it is the Councils stated objective to ensure that new buildings respect the character, pattern and tradition of existing places and fit appropriately in to the landscape, as set out*

in objective HE 4-6(a). It is also and objective, under GL 6-1(a) to protect the visual amenities of the county's natural environment. Having regard to the elevated nature of the site, and to its relationship with neighbouring properties, it is considered that the proposed development by reason of its siting, form and design would detracted from the visual amenities of the area, would give rise to disorderly backland development and would contravene objectives of the Cork County Development Plan. The proposed development would therefore conflict with objectives of the County Development Plan and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The reports by the Area Planner and the Acting Senior Executive Planner raised a number of concerns regarding the proposed development and recommended that permission be refused for the reasons stated above.

3.2.2. Other Technical Reports

Area Engineers Report: Recommended that permission be refused.

Liaison Officers Report: No comment

3.3. Prescribed Bodies

None

3.4. Third Party Observations

None

4.0 Planning History

Subject Site

Reg. Ref. 058729: Outline permission was refused in 2006 for a house. The 4 no. reasons for refusal related to (1) public health due to inadequate septic tank drainage (2) public health due to a proliferation of septic tanks, (3) undesirable density of development in a rural area, (4) haphazard backland development.

Reg. Ref. 07/10130: Outline permission was refused in 2007 for a house. The 4 no. reasons for refusal related to (1) public health due to a proliferation of septic tanks, (2) undesirable density of development in a rural area, (3) haphazard backland development and (4) traffic hazard.

Reg. Ref. 18/6157: Permission was granted in 2019 to decommission an existing septic tank and provide a new effluent treatment system with tertiary treatments filter to serve the existing house to the south of the subject site. The redline boundary of the site included the southern section / proposed driveway of the subject site.

5.0 Policy Context

5.1. ***Fermoy Municipal District Local Area Plan, 2017***

The site is located outside of the existing built up areas of both Castlelyons and Fermoy. It is located within an area zoned Greenbelt 1 (FY-GB1-1). The greenbelt exists around Fermoy to help to maintain the identity of the town and encourage more development activity within the development boundary.

Objective GB1-1: strongly discourages new individual housing within Greenbelts.

The Plan also notes that exceptions to this objective will only be permitted for individuals who can demonstrate a genuine rural generated housing need based on their social and / or economic links to a particular local rural area.

5.2. ***Cork County Development Plan, 2014***

Figure 4.1 of the Plan '*Rural Housing Policy Area Types*' identifies the site as being located in a 'Town Greenbelt – 1-1. **Policy RCI 4-2** notes that these areas are under significant pressure for rural housing. Therefore, applicants are required to demonstrate that their proposal complies with a genuine housing need.

The following policies are also relevant:-

- RCI 5-8: Greenbelts around Settlements
- RCI 6-1: Design and Landscaping of New Dwelling Houses in Rural Areas
- RCI 6-2: Servicing Individual Houses in Rural Areas:

- RCI 6-4: Occupancy Conditions
- RCI 2-1: Urban Generated Housing
- RCI 2-2: Rural Generated Housing
- HE 4-6: Design and Landscaping of New Buildings.
- GI 6-1: Landscape

The Cork Rural Design Guide: Building a New House in the Countryside, 2003 is also considered relevant.

5.3. ***Sustainable Rural Housing Development Guidelines***

The guidelines require a distinction to be made between 'Urban Generated' and 'Rural Generated' housing need. A number of rural area typologies are identified including rural areas under strong urban influence which are defined as those with proximity to the immediate environs or close commuting catchment of large cities and towns. Examples are given of the types of circumstances for which 'Rural Generated Housing Need' might apply. These include 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'.

5.4. ***National Planning Framework***

Policy Objective 19: *'Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:*

- *In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements;*
- *In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory*

guidelines and plans, having regard to the viability of smaller towns and rural settlements’.

5.5. Natural Heritage Designations

The subject site is located approx. 3km south and approx. 4km north of the Blackwater River (Cork / Waterford) SAC (site code 002170).

5.6. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal against the Planning Authority’s decision to refuse permission has been submitted. The submission addresses the 3 no. reasons for refusal and is summarised below: -

- The proposed effluent disposal system has been designed in accordance with the EPA code of practice.
- The proposed house would not generate a demand for public services as it would be served by a private waste water treatment system and water supply is proposed from a group scheme. A letter of consent has been provided.
- The proposed house is modest in scale and the site is screened on all sides. Therefore, it would not impact on the rural character of the area.
- Due to the elevated nature of the site it is proposed to cut into the site to ensure the house would be fully screened and would not impact on the visual amenities of the area. Alterations to the design of the house are acceptable to the applicant.

- Permission was previously granted on the adjoining site for a backland development.
- It is noted that the applicant grew up in an existing house, located to the south of the subject site. There are no third-party objections to the proposed development.
- The applicant has addressed the previous reasons for refusal on the site in terms of public health and access concerns.

6.2. **Planning Authority Response**

None

7.0 **Assessment**

7.1. In the appeal the applicant presented an alternative proposal to address the Planning Authorities concerns regarding the elevated nature of the site. The revised proposal comprises the excavation of between 1m - 4m of the site to ensure the house would not be visible from the public road. I would have serious concerns regarding the proposed manipulation of the landscape. The assessment, therefore, focuses on the original scheme submitted to the Planning Authority on the 16th October 2018.

7.2. The main issues in this appeal relate to water services, compliance with rural housing policy and visual amenity. Appropriate Assessment requirements are also considered. I am satisfied that no other substantial planning issues arise. The main issues can be dealt with under the following headings:

- Water Services
- Compliance with Rural Housing Policy
- Visual Amenity.
- Appropriate Assessment

7.3. **Water Services**

7.3.1. The Planning Authority's first reason for refusal refers to the ground conditions coupled with the size and slope of the site and considered that the site could not be drained

satisfactorily by means of waste water treatment system and could pose a pollution risk to groundwater and wells.

- 7.3.2. In the appeal the applicant has stated that the proposed waste water treatment system has been designed in accordance with EPA code of practice.
- 7.3.3. It is proposed to install a packaged wastewater treatment system and polishing filter with discharge to ground water. Policy RCI 6-2 of the Development Plan requires proposals for proprietary treatment systems to comply with the EPA Code of Practice for Waste Water Treatment and Disposal Systems Serving Single Houses'. Section 6.4 of the Code of Practice states that where the slope of a site exceeds 1:8 it is unsuitable to discharge to ground. The site suitability report submitted to the Planning Authority notes that the sites slope is steep, >1:5 and, therefore, is not in compliance with EPA Code of Practice and would constitute a potential risk to groundwater. Having regard to the size and narrowness of the site it is considered that an alternative means of waste water treatment could not be achieved.
- 7.3.4. In addition, having regard to the significant number of one-off houses in the immediate vicinity of the site I would have concerns regarding an increased proliferation of individual waste water treatment systems and consider that the provision of an additional system at an elevated position could pose a risk to existing ground water and existing wells.
- 7.3.5. The site suitability report also states that while the site appears suitable for discharge to ground, groundwater is at risk and notes that it appears from the trial holes that a high-water table or water ingress from a spring occurs in wintertime. To mitigate against any risk, it is proposed to provide a raised bed with pipework, approx. 0.4m above the current ground level.
- 7.3.6. In conclusion, having regard to the slope and the high water table, as evidenced by the Site Suitability Report and the restricted nature of the site it is considered the site cannot be adequately drained by means of a waste water treatment system. In addition, having regard to the proliferation of existing waste water treatment systems in the immediate vicinity of the site is considered that the proposed development would pose a risk to groundwater and existing wells. I, therefore, recommend that permission be refused on this basis.

7.4. Compliance with Rural Housing Policy

- 7.4.1. The Planning Authority's second reason for refusal indicates that the proposed development would not be in accordance with the Sustainable Rural Housing Guidelines and would be contrary to Policy RCI 5-8: Greenbelts around Settlements.
- 7.4.2. The site is located within the Greenbelt for Fermoy. Policy RCI5-8 aims to prevent sprawl and reserve land in Greenbelts for use as agriculture, open space or recreational uses. The Policy RCI 4-2 relates to development in greenbelts and notes that these areas are under significant urban pressure for rural housing. Therefore, an application for a one-off rural house must demonstrate a genuine rural housing need.
- 7.4.3. The Sustainable Rural Housing Guidelines define rural areas under strong urban influence as those within proximity to the immediate environs or close commuting catchment of large cities and towns. Circumstances for which a genuine housing need might apply include persons who are an intrinsic part of the rural community and persons working full time or part time in rural areas. In addition, Policy Objective 19 of the National Planning Framework requires that, in rural areas under urban influence, the core consideration for the provision of a one-off rural house should be based on the demonstratable economic or social need to live in the rural area.
- 7.4.4. It is noted that one of the applicant's has been refused outline permission on 2 no. separate occasions for a house on the subject site. Information has been submitted in support of the application which states that one of the applicants grew up in the existing house, to the south of the subject site, and attended local schools. Information regarding both of the applicant's employment has also been provided and it is noted that they both work outside of the locality.
- 7.4.5. While it is acknowledged that one of the applicants is from the local area, it is considered that the applicant's have not demonstrated a sufficient economic or social need to live in the area, as set out in Policy Objective RCI 4-2 of the Development Plan, the Sustainable Rural Housing Guidelines and Policy Objective 19 of the National Planning Framework. In addition, it is my view, that the proposal would also contravene Policy RCI 5-8: Greenbelts around Settlements.
- 7.4.6. In the absence of an identified locally based economic or social need to live in the area it is considered that the proposed development would contribute to the encroachment

of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and would negatively impact on the viability of smaller towns and villages.

7.5. **Visual Amenity**

7.5.1. The Planning Authority's third reason for refusal refers to the elevated location of the site and its relationship with existing properties and considered that the siting, form and design of the proposed development would detract from the visual amenities of the area.

7.5.2. The cross section submitted with the appeal indicates that the subject site is elevated approx. 10m above the public road. It is proposed to construct a single storey house with a height of approx. 6m. The site is not located within a designated scenic or amenity area, however, the wider area is identified as '*Broad Fertile Lowland Valleys*' in the Development Plan. These landscapes are of high landscape value and sensitivity and are of county level importance. It is considered that these landscapes are vulnerable and can accommodate limited development only. Having regard to the distance from the public road, approx. 100m and the provision of existing mature trees and vegetation, it is my opinion, that the proposed development would be sufficiently screened and would not result in a development that is visually obtrusive.

7.5.3. The Planning Authority raised concerns regarding the siting of the house. As there is an existing house to the west of the site, which is located approx. 70m from the public road, it is my view, that the proposed house would not be out of character with the pattern and siting of existing houses in the area. It is also considered that the house design is in accordance with Development Plan policy and guidance set out in the Cork Rural Design Guide: Building a New House in the Countryside, 2003.

7.6. **Appropriate Assessment**

Having regard to the nature and small scale of the proposed development and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

8.0 Recommendation

I recommend that permission be refused for the reasons stated in the attached schedule.

9.0 Reasons and Considerations

1. The subject site is located within a 'Greenbelt' which is an area under significant pressure for rural housing, as identified in the Cork County Development Plan 2014. Furthermore, the site is located in an area that is designated as under urban influence in the Sustainable Rural Housing Guidelines and in the National Planning Framework, where National Policy Objective 19 aims to facilitate the provision of single housing in the countryside, based on the core consideration of demonstrable economic or social need to live in a rural area. Having regard to the documentation submitted with the application and appeal, the Board is not satisfied that the applicant has a demonstrable economic or social need to live in this rural area. It is considered, therefore, that the applicant does not come within the scope of the housing need criteria as set out in the Cork County Development Plan, 2014 or in national policy for a house at this location. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the high water table, as evidenced by the Site Suitability Report and the size and slope of the site it is considered that on the basis of the information submitted the site cannot be adequately drained by means of a waste water treatment system. Having regard to the proximity of the proposed waste water treatment system to existing private wells and the proliferation of existing waste water treatment systems in the immediate vicinity of the site, it is considered that the proposed development would pose a risk to groundwater and would, therefore, be prejudicial to public health.

Elaine Power
Planning Inspector

17th July 2019